

Department of Public Health and
Human Services (DPHHS)

Health Insurance Portability and Accountability Act ("HIPAA") Privacy Policy

John Chappuis, Deputy Director

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Revised Date:

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| Policy Title: | Amendment of Protected Health Information | | |
| Policy Number: | 005 | Version: | 1.0 |
| Approved By: | | | |
| Date Approved: | | | |

Purpose:

This policy addresses the rights of patients to correct or amend incorrect or incomplete Protected Health Information ("PHI").

Policy:

A patient has the right to request, in writing, that DPHHS correct or amend PHI held by DPHHS. A patient may request that the corrected PHI be sent to previous recipients of the information.

Within thirty (30) days of the dated receipt of a request, DPHHS must either make the requested correction or amendment or deny the request in writing. DPHHS may request a 30 day extension if they are unable to comply with the request within the time limits. A DPHHS provider must respond to a request to amend PHI within ten (10) working days. If unusual circumstances delay the response, DPHHS providers must inform the patient and specify a date within 21 days of the original request when the request will be dealt with (MCA 50-16-543).

An amendment or correction may either be made as part of the PHI or the challenged entry may be marked as corrected or amended with indications of where in the record the amended information may be found.

A request for amendment may be denied in writing if:

The record no longer exists or cannot be found;

The record is maintained by another entity in which case, DPHHS must advise the patient of the name and address, if known, of the person who maintains the record; or

DPHHS believes the record to be correct

A denial of the amendment must be written in layman's language and must contain:

The basis for the denial;

the patient's right to submit a written statement disagreeing with the denial and have that statement sent to previous and future recipients of the PHI; and
A description of how the patient can complain to DPHHS or to HHS. DPHHS can reasonably limit the length of a statement of disagreement.

If DPHHS chooses to create a written rebuttal of the statement of disagreement, a copy must be supplied to the patient.

Future disclosures of the PHI must contain either the original request for amendment or the statement of disagreement.

Procedure

MCDC will follow the above policy for amending or denial of the requested amendment.

A professional staff member (LAC, Mental Health Professional or MD), along with the Facility Administrator will make the determination if the request for amendment or correction is valid or not.

If the change is valid the amendment or correction will be made to the patient record by the proper professional staff and the Facility Administrator. A copy of the amendment will be sent with all future information sent from the facility regarding the patient.

If the amendment is denied, a copy of the request to amend the record and a copy of the denial must accompany all future information sent from the facility regarding the patient.

If the amendment is denied, the denial must be in plain language that is easily understood and must contain the reason for the denial, the patient's right to submit a written statement disagreeing with the denial and have that statement sent to previous and future recipients of information along with a description of how the patient can complain to DPHHS. If the patient submits a written statement disagreeing with the denial, it will be kept in the very front of the medical record.

When a written statement disagreeing with a denial is received the statement will be sent to all persons or organizations that have previously received information from MCDC (post 4/13/2003) and will be sent with all future information sent from this facility.

All requests for amendment or correction along with the approved correction or denial will be placed at the very front of the medical record and will accompany all future information sent from the facility.

In all cases the professional staff making the decision to either amend the record or deny the request to amend the record will notify the patient in writing within required timelines of the decision. A copy of this letter will be kept in the patient's medical record.

Procedure added 2/20/2003 MKH